

§ 458.65 Procedures following actionable complaint.

(a) If the Chief, DOE concludes that there is probable cause to believe that a violation has occurred which may have affected the outcome and which has not been remedied, he shall proceed in accordance with §§ 458.66 through 458.92.

(b) The challenged election shall be presumed valid pending a final decision thereon by the Assistant Secretary, and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.

(c) When the Chief, DOE supervises an election pursuant to an order of the Assistant Secretary issued under § 458.70 or § 458.91, he shall certify to the Assistant Secretary the names of the persons elected. The Assistant Secretary shall thereupon issue an order declaring such persons to be the officers of the labor organization.

[45 FR 15158, Mar. 7, 1980. Redesignated and amended at 50 FR 31311, 31313, Aug. 1, 1985; 62 FR 6094, Feb. 10, 1997]

OTHER ENFORCEMENT PROCEDURES

§ 458.66 Procedures for institution of enforcement proceedings.

(a) Whenever it appears to the Chief, DOE that a violation of any provision of §§ 458.26 through 458.30 has occurred and has not been remedied, he shall immediately notify any appropriate person and labor organization. Within fifteen (15) days following receipt of such notification, any such person or labor organization may request a conference with the Chief, DOE or his representative concerning such alleged violation.

(b) Whenever it appears to a District Director that a violation of this part (other than §§ 458.2, 458.26–458.30, or 458.37) has occurred and has not been remedied, he shall immediately notify any appropriate person and labor organization. Within fifteen (15) days following receipt of such notification, any such person or labor organization may request a conference with the District Director or his representative concerning such alleged violation.

(c) At any conference held pursuant to this section, the Chief, DOE or Dis-

trict Director may enter into an agreement providing for appropriate remedial action. If no person or labor organization requests such a conference, or upon failure to reach agreement following any such conference, the Chief, DOE or District Director shall institute enforcement proceedings by filing a complaint with the Chief Administrative Law Judge, U.S. Department of Labor, and shall cause a copy of the complaint to be served on each respondent named therein. If an agreement is reached and the Chief, DOE or District Director concludes that there has not been compliance with all the terms of the agreement, he may refer the matter to the Assistant Secretary for appropriate enforcement action or file a complaint with the Chief Administrative Law Judge.

[50 FR 31313, Aug. 1, 1985. Redesignated at 50 FR 31311, Aug. 1, 1985, as amended at 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

§ 458.67 Standards complaint; initiation of proceedings.

A complaint filed under § 458.66 shall constitute the institution of a formal enforcement proceeding in the name of the Chief, DOE or District Director, who shall be the only complaining party in the proceeding and shall, where he believes it appropriate, refrain from disclosing the identity of any person who called the violation to his attention (except in proceedings involving violations of § 458.29, Election of officers). The complaint shall include the following:

(a) The name and identity of each respondent.

(b) A clear and concise statement of the facts alleged to constitute violations of the CSRA or FSA or of this part.

(c) A statement of the relief requested.

(d) In any complaint filed by the Chief, DOE on the basis of a complaint received from a member of a labor organization pursuant to § 458.63, a statement setting forth the procedures, if any, followed to invoke available remedies, including the dates when such procedures were invoked, and the substance of any ruling or decision received by the complaining member